

Hon. Miroslav Lovric  
United States Magistrate Judge  
United States District Court  
Northern District of New York  
15 Henry Street  
Binghamton, New York 13901

Re: *Estate of Joseph P. King v. Ward, et al*  
Civil Case No.: 9:20-cv-1413

Dear Judge Lovric:

Responding to this honorable Court's directives of March 11, 2020 and March 16, 2020, Plaintiffs' counsel wish to apologize to the Court for not having filed until yesterday the Affidavit of Non-Service regarding Defendant Hal Meyers (attached hereto as Exhibit A). The aforesaid affidavit arrived in our offices on a timely basis in February, but it was not timely filed with the Court due to office error in not getting the affidavit to the attorneys of record.

Service on Defendant Meyers was attempted twice in January 2020 at his place of employment, Mid-State Correctional Facility. It appears, however, that Defendant Meyers has a supervisory role in the mental health counseling offices of a number of state correctional facilities and he was not physically working/present Mid-State Correctional Facility on the two days that service of process was attempted.

Pursuant to CPLR 308, Plaintiffs are now moving swiftly to perfect Substitute Service on Defendant Hal Meyers and respectfully request leave to do so. Plaintiffs will report back to the Court on or before March 31, 2021 with a status update on the Substitute Service.

Respectfully,

\_\_\_\_s/  
Douglas Scott Wiggins, Esq.  
Lento Law Group

EXHIBIT A

## AFFIDAVIT OF NON-SERVICE

<b>Case:</b> 9:20-cv-1413 (TJM/ML)	<b>Court:</b> UNITED STATES DISTRICT COURT NORTHERN DISTRICT	<b>County:</b> Onondaga, NY	<b>Job:</b> 5261717
<b>Plaintiff / Petitioner:</b> The Estate of Joseph P. King, } by and through its administrator } Ad Prosequendum, Amy King, } and Amy King, in her own right,		<b>Defendant / Respondent:</b> Joseph Ward, Superintendent } of Mid-State Correctional Facility (NY), } in his individual capacity; John Does } Corrections Officers (1- 10, fictitious } COMPLAINT individuals), in their individual capacities; } Jami Palladino, Mid-State Social } JURY TRIAL DEMANDED Worker, in her individual capacity; Hal } Meyers, Mid- State Chief Mental Health } Counselor, in his individual capacity; } Anthony J. Annucci, Acting Commissioner, } State of New York Department of } Corrections, in his individual capacity; and } Marie T. Sullivan, MD, Commissioner, } State of New York Department of Mental } Health, in her individual capacity.	
<b>Received by:</b> JP Process Serving		<b>For:</b> LENTO LAW GROUP	
<b>To be served upon:</b> Hal Meyers, Mid-State Chief Mental Health }.			

I, JAKEEM PENN, being duly sworn, depose and say: I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to make service of the documents and informed said person of the contents herein

**Recipient Name / Address:** Hal Meyers, Mid-State Chief Mental Health }, PLACE OF EMPLOYMENT: 9005 OLD RIVER RD, MARCY, NY 13403

**Manner of Service:** Unsuccessful Attempt

**Documents:** COMPLAINT, JURY TRIAL DEMAND

**Additional Comments:**

1) Unsuccessful Attempt: Jan 18, 2021, 12:19 pm EST at PLACE OF EMPLOYMENT: 9005 OLD RIVER RD, MARCY, NY 13403

No one is in the office today.

2) Unsuccessful Attempt: Jan 19, 2021, 12:48 pm EST at PLACE OF EMPLOYMENT: 9005 OLD RIVER RD, MARCY, NY 13403

He is a supervisor but doesn't work solely at this facility. He goes from facility to facility. He may be at this location on Friday. But I was told I'd be better off finding them at home. Haven't been able to find a home address.

**Fees:** \$35.00

JAKEEM PENN

Date

JP Process Serving  
P.O. BOX 105  
UTICA, NY 13503  
315-542-6115

Subscribed and sworn to before me by the affiant who is personally known to me.

Notary Public

Date

Commission Expires

BRENT WHITTINGTON  
Notary Public, State of New York  
Reg. No. 01WH6124415  
Qualified in Oneida County  
Commission Expires March 28, 2021

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 9:20-cv-01413-TJM-ML

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for (name of individual and title, if any) Hal Myers  
 was received by me on (date) January 14, 2021.

☐ I personally served the summons on the individual at (place) \_\_\_\_\_  
 on (date) \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with (name) \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on (date) \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on (name of individual) \_\_\_\_\_, who is  
 designated by law to accept service of process on behalf of (name of organization) \_\_\_\_\_  
 on (date) \_\_\_\_\_; or


☒ I returned the summons unexecuted because P.O.E and Local Residence Not Valid

☐ Other (specify): I mailed a copy to the individual's last known address as pursuant to rules of service as required.

My fees are \$ 35.00 for travel and \$ 0.00 for services, for a total of \$ 35.00.

I declare under penalty of perjury that this information is true.

Date: 2/4/21

  
 Server's signature

Jakeem Pearson Server  
 Printed name and title

500 Seneca St Utica NY 13503  
Suite 105 Server's address

Additional information regarding attempted service, etc: